IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6594 of 1994

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANJU MEGHA & 7 - Petitioner(s)

Versus

EXECUTIVE ENGINEER - Respondent(s)

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Appearance :

(MR HK RATHOD) for Petitioner No(s).: 1,2,3,4,5,6,7,8.

MR MUKESH H RATHOD for Petitioner No(s).: 5 - 5.

MR KL PANDYA A.G.P. for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 01/08/2005

ORAL JUDGMENT

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1. This petition is directed against the judgment and award dated 23rd September, 1993 passed by the Labour Court, Rajkot in Reference [L.C.R.] Nos. 326/88 to 333/88, whereby the Labour Court has denied two years full back wages for the interim period.

2. The short facts of the case are that the petitioners were working as Labourer with the respondent. It is the case of the petitioners that they were working as such for more than five years. It is further the case of the petitioners that the respondent without following any procedure under the Industrial Disputes Act, 1947, orally terminated their services w.e.f. 28th March, 1984.

2.1. Feeling aggrieved by the said order, the petitioners approach the Labour Court, Rajkot for adjudication. The Labour Court after appreciating the materials produced before it, denied the full back wages for the interim period. Hence, this petition.

3. I have heard the learned counsel for the parties. Having perused the materials produced on record, it transpires that the Labour Court while denying full back wages has observed that the petitioners were gainfully employed elsewhere. Moreover in view of the principle laid down by the Apex Court in the case of **General Manager, Haryana v. Rudhan Singh reported in J.T. 2005 (6) S.C., p.137**, wherein it has been held that an order for payment of back wages should not be passed in a mechanical manner, but a host of factors are to be taken

into consideration before passing any such order. Thus, I am in complete agreement with the reasonings adopted and findings arrived at by the Labour Court while denying full back wages.

4. In the result, the petition is dismissed. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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